

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:

RAYMOND M. HILDRETH and : Case No. 05-27164/JKF
SUSAN B. HILDRETH, : Chapter 13
Debtor(s) :

RAYMOND M. HILDRETH : Related to Document No. 50 and 55
and SUSAN B. HILDRETH, :
Movant(s), :

v.

AMERICAN EDUCATION :
SERVICES, PA and/or ECMC, :
Respondent(s). :

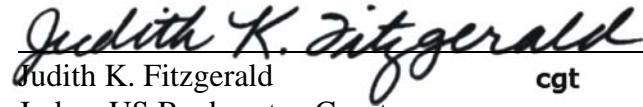
ORDER DENYING MOTION FOR UNCLAIMED FUNDS

Generally, funds deposited for the benefit of a creditor cannot be refunded to a debtor because such funds are presumed to be property of and owned by the specific creditor until shown otherwise. Although 28 U.S.C. §2042 allows for distribution of funds held by the Court to a claimant entitled to such money on petition to the Court, notice must first be given to the United States Attorney and *full proof of the right thereto* shown in the *Motion*. Here, the *Motion* lacks reference to any documentary proof of entitlement, or other proof that the claimed funds are property of the Debtor, and alternatively, what, if any, portion of the funds are owned by American Education Services/PA and/or ECMC.

The request for unclaimed funds was not filed in a motion format and does not comply with this Court' Local Rules and Local Forms regarding "captioning" of pleadings, specifically, *Local Rule 9004-1, Electronic Case Filing Procedure #8*, and/or *Bankruptcy Rule 9011*.

***AND NOW*, this 23rd day of December, 2010, upon consideration of the Debtor's**

Letter Dated November 15, 2010, Requesting Release of Unclaimed Funds, (filed at Document Number 50), for the above reasons, it is hereby ***ORDERED*** that the *Motion for Release of Unclaimed Funds* is ***DENIED***, without prejudice.



Judith K. Fitzgerald cgt
Judge, US Bankruptcy Court

Case Administrator to mail to:

Ronda Winnecour, Esq.
Debtor
Counsel for the Debtor